



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Benjamin T. Marcum 3559338

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:21-cv-00142
(Number to be assigned by Court)

Brian Penick

(Enter above the full name of the defendant
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes X No _____

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: Benjamin T. Marcus 3559338

Defendants: Charles Moles

2. Court (if federal court, name the district; if state court, name the county):

Southern District of West Virginia

3. Docket Number: 2:21-CV-00107

4. Name of judge to whom case was assigned:

Honorable Dwane L. Tinsley, United States Magistrate Judge

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

Still Pending

6. Approximate date of filing lawsuit: @Feb. 16 2021

7. Approximate date of disposition: Feb. 24, 2021

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: Brian Penick

is employed as: Correctional officer

at Mount Olive Correctional Complex

D. Additional defendants: _____

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

See Attached Document

IV. Statement of Claim (continued):

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

See Attached Document

V. Relief (continued):

VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

None

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes X No

If so, state the name(s) and address(es) of each lawyer contacted:

~~James F. Humphrey~~ James F. Humphrey 5 1/2 Capital Street 2nd floor Charleston WV 25301

JASON HUBER 100 Capital Street Suite 400 Charleston WV, 25301 / Stroebel + Stroebel P.O. Box 2582
Robert J. Frank and ASS. PLLC 400 W. Washington St. STE 11 Charleston WV 25329
Robert J. Frank and ASS. PLLC 400 W. Washington St. STE 11 Lewisburg WV 24502

If not, state your reasons: _____

- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes No X

If so, state the lawyer's name and address:

Signed this 24 day of February, 20 21.

Bryan T. Mann 3559338

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Feb. 24 2021
(Date)

Bryan T. Mann 3559338
Signature of Movant/Plaintiff

Signature of Attorney
(if any)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

Benjamin Todd MARCUM

Your full name

v.

Civil Action No.: 2:21-cv-00142

Brian Penick

Enter above the full name of defendant(s) in this action

Certificate of Service

I, Benjamin T. MARCUM (your name here), appearing *pro se*, hereby certify
that I have served the foregoing 42 USC 1983 Complaint (title of document
being sent) upon the defendant(s) by depositing true copies of the same in the United States mail,
postage prepaid, upon the following counsel of record for the defendant(s) on

(insert date here):

(List name and address of counsel for defendant(s))

Brian Penick 3559338
(sign your name)